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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

RANDY YORDY,
Plaintiff

v.

SCOTT BROWN, PAUL EVANKO,
BERON F. STEAGER, AND BARRY L.
BRINSER, et al.,
Defendants

No. 1:01-CV-0206

(Judge Kane)

FILED
HARRISBURG, PA
FEB 27 2001
MARY E. DIANDREA CLERK
Deputy Clerk

**DEFENDANTS' MOTION FOR ENLARGEMENT
OF TIME IN WHICH TO FILE BRIEF**

Pursuant to Rule 6(b) of the Federal Rules of Civil Procedure, defendants, by their counsel, move the Court for an enlargement of time in which to file the brief in support of their motion to dismiss the complaint. In support hereof, defendants state as follows:

1. This is a civil action for damages brought pursuant to 42 U.S.C. § 1983.
2. The complaint was filed on February 1, 2001, and was personally served upon the named defendants on February 2 and 5, 2001.
3. Defendants filed a motion to dismiss the complaint on February 20, 2001. The brief in support of that motion is due by March 5, 2001.
4. As undersigned counsel advised plaintiff's counsel when concurrence in the motion to dismiss was sought, the focus of the motion to dismiss will be the issue of whether the Court has jurisdiction to hear plaintiff's § 1983 claims against the named troopers in light of plaintiff's guilty pleas on February 15, 2000 before Judge Kleinfelter of the Court of Common Pleas of Dauphin County. (See Exhibit A hereto).

5. At that guilty plea hearing, plaintiff pled guilty to the crimes of aggravated assault, resisting arrest and D.U.I. in connection with the same incidents that are the subjects of this § 1983 action.

6. Defendants' brief in support of the motion to dismiss will present argument concerning the preclusive effect of plaintiff's guilty pleas.

7. In considering defendants' argument and plaintiff's response, the Court should receive benefit from the transcript of plaintiff's guilty plea hearing before Judge Kleinfelter.

8. When undersigned counsel for defendants contacted Judge Kleinfelter's court reporter on February 23, 2001 to obtain a copy of the transcript of the guilty plea hearing, counsel was advised that that transcript had not been prepared yet and that it may take up to thirty (30) additional days for it to be available.

9. While it is not counsel's desire to delay disposition of the motion to dismiss, a considerable amount of judicial and litigant resources conceivably may be saved if defendants' position is correct on the preclusive effect of plaintiff's guilty pleas.

10. The Court should allow defendants to present the transcript of plaintiff's guilty plea hearing so the Court may place plaintiff's pleas in their proper context for this case.

11. If the transcript of plaintiff's guilty plea hearing is received earlier than presently expected, the brief in support of the motion to dismiss will be submitted to the Court shortly after receipt.

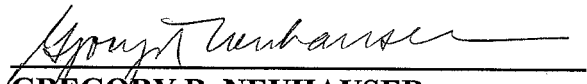
12. Defendants' counsel has contacted plaintiff's counsel who advises that plaintiff does not oppose this motion.

WHEREFORE, defendants' motion for enlargement of time should be granted and the deadline for defendants' brief in support of their motion to dismiss the complaint should be extended to April 5, 2001.

Respectfully submitted,

D. MICHAEL FISHER
Attorney General

By:


GREGORY R. NEUHAUSER
Senior Deputy Attorney General

SUSAN J. FORNEY
Chief Deputy Attorney General
Chief, Litigation Section

OFFICE OF ATTORNEY GENERAL
15th Floor, Strawberry Square
Harrisburg, PA 17120
717-787-8106

DATE: February 27, 2001

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: No. 1:01-CV-0206
:
: (Judge Kane)
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CERTIFICATE OF CONCURRENCE

Gregory R. Neuhauser, Senior Deputy Attorney General, hereby certified that
concurrence in the foregoing motion was sought and obtained from counsel for plaintiff, Spero T.
Lappas, Esquire.



GREGORY R. NEUHAUSER
Senior Deputy Attorney General

DC - 300B (PART II) (Rev. 10-85)
(TO BE ATTACHED TO PART I - COURT COMMITMENT)

COURT COMMITMENT
COUNTY CORRECTIONAL INSTITUTION
Commonwealth of Pennsylvania

VS.

Randy Adam Yordy

COMMITMENT NAME (LAST, FIRST, INITIAL, SUFFIX)

Type or Print Legibly

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

NOTE: Additional supply of this form available at above address:

COURT NUMBER

685CD99 Cts.3,5,6

OFFENSE TRACKING NUMBER (OTN)

F177106-6

The above defendant after ☒ pleading guilty ☐ nolo contendere ☐ being found guilty was on
March 23rd, 2000 sentenced by Judge/District Justice Hon. J. Kleinfelter to a term of
not less than _____ years 2 months _____ days nor more than 1 less years _____ months _____ days, or
1 day
each count for the offense of DUI and Resisting Arr. (2)

(Section 75PS§3731(a)(1-4) of the Crimes Code) or (other statute)
18Pa.CS§5104

FINE

AMOUNT \$ 1000.00 Ct.3
500.00 Cts.5,6

To Be Paid To:

☒ COUNTY ☐ COMMONWEALTH

COSTS

AMOUNT \$ N/A

To Be Paid By:

☐ COUNTY ☒ COMMONWEALTH

RESTITUTION

CREDIT FOR TIME SERVED

EFFECTIVE DATE OF SENTENCE

March 24, 2000

This sentence shall be deemed to run concurrent to any existing sentences, effective the date of imposition unless otherwise stipulated below:

Ct. 3 is CS to Ct. 2 Ct. 5 is CS to Ct. 3 Ct. 6 is CC to Ct. 3

COURT NUMBER

OFFENSE TRACKING NUMBER (OTN)

The above defendant after ☐ pleading guilty ☐ nolo contendere ☐ being found guilty was on
_____, _____ sentenced by Judge/District Justice _____ to a term of
not less than _____ years _____ months _____ days nor more than _____ years _____ months _____ days, or
_____ for the offense of _____

(Section _____ of the Crimes Code) or (other statute) _____

FINE

AMOUNT \$ _____

To Be Paid To:

☒ COUNTY ☐ COMMONWEALTH

COSTS

AMOUNT \$ N/A

To Be Paid By:

☐ COUNTY ☒ COMMONWEALTH

RESTITUTION

CREDIT FOR TIME SERVED

EFFECTIVE DATE OF SENTENCE

This sentence shall be deemed to run concurrent to any existing sentences, effective the date of imposition unless otherwise stipulated below:

Certified: A True Copy

MAR 24 2000
(SEAL)

(Clerk of the Court)

In witness to the above sentence(s) for offense(s) as well as those found on the reverse side of this document, I have hereunto set my hand and seal of said court

This 24th day of March 2000

Jequeline Redinger

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Plaintiff

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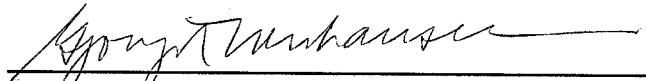
No. 1:01-CV-0206

(Judge Kane)

CERTIFICATE OF SERVICE

I, **GREGORY R. NEUHAUSER**, Senior Deputy Attorney General for the Commonwealth of Pennsylvania, Office of Attorney General, hereby certify that on **February 27, 2001**, I caused to be served a true and correct copy of the foregoing document **Defendants' Motion for Enlargement of Time in Which to File Brief**, by depositing it in the United States mail, first-class postage prepaid to the following:

Spero T. Lappas, Esquire
205 State Street
Harrisburg, PA 17101-0808



GREGORY R. NEUHAUSER
Senior Deputy Attorney General